

Message Text

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12

ORIGIN EB-07

INFO OCT-01 ARA-10 EUR-12 NEA-10 ISO-00 CAB-05 CIAE-00

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EA/IMS - A.DORNHEIM

EA/IMA:WSHEPARD

EA/PHL:JSARTORIOUS

EA/K:FMISCH

EA/ROC:HENGLEBRECHT

EA/J:DSMITH

EA/PRCM:MVONBRIESEN

NEA/ARN:TCAROLAN

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R 161505Z NOV 76

FM SECSTATE WASHDC

TO AMEMBASSY ANKARA

AMEMBASSY ATHENS

AMEMBASSY LISBON

AMEMBASSY MADRID

AMEMBASSY NICOSIA

AMEMBASSY TEL AVIV

AMEMBASSY BUCHAREST

AMEMBASSY BUDAPEST

AMEMBASSY COPENHAGEN

AMEMBASSY LUXEMBOURG

AMEMBASSY MOSCOW

AMEMBASSY OSLO

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AMEMBASSY PRAGUE

AMEMBASSY SOFIA
AMEMBASSY STOCKHOLM
AMEMBASSY VIENNA
AMEMBASSY WARSAW
AMEMBASSY COLOMBO
AMEMBASSY DACCA
AMEMBASSY ISLAMABAD
AMEMBASSY NEW DELHI
AMCONSUL CURACAO
AMCONSUL BELIZE
ALL EAST ASIAN AND PACIFIC DIPLOMATIC POSTS
ALL AMERICAN REPUBLIC DIPLOMATIC POSTS
USCINCSO
INFO AMEMBASSY AMMAN
AMEMBASSY BELGRADE
AMEMBASSY BERN
AMEMBASSY BONN
AMEMBASSY BRUSSELS
AMEMBASSY DUBLIN
AMEMBASSY HELSINKI
AMEMBASSY OTTAWA
AMEMBASSY PARIS
AMEMBASSY ROME
AMEMBASSY THE HAGUE
AMEMBASSY LONDON
AMCONSUL RIO DE JANEIRO
XMT USLO PEKING
AMEMBASSY VIENTIANE

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E.O11652: N/A

TAGS: EAIR, XX

SUBJECT: CIVAIR - NEW US ADVANCE BOOKING CHARTER FLIGHT
RULES

1. ACTION POSTS ARE REQUESTED TO DELIVER IN WRITING TO
APPROPRIATE AUTHORITIES MESSAGE IN PARAGRAPH 3 BELOW. THIS
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SHOULD INCLUDE NOT ONLY CIVAIR AUTHORITIES AND FOREIGN
OFFICE PERSONNEL CONCERNED WITH CIVAIR BUT TOURISM DEVELOP-
MENT PEOPLE AND TREASURY PEOPLE INTERESTED IN FOREIGN
EXCHANGE EARNINGS. ACTION POST VIENNA SHOULD ADD A STATE-
MENT OF APPRECIATION TO CIVAIR AUTHORITIES FOR THEIR LETTER
OF ACCEPTANCE OF ABC CHARTERS RECEIVED WHILE THE RULEMAKING
WAS IN PROGRESS. INFO POSTS OTTAWA, BELGRADE, AND AMMAN
WILL BE RECEIVING SEPARATE INSTRUCTIONS RELATIVE TO CLAUSES

IN EXISTING NONSCHEDULED AIR SERVICES AGREEMENTS BUT MAY DRAW UPON MESSAGE WHICH FOLLOWS IN DISCUSSIONS WITH HOST OFFICIALS. INFO POSTS BERN, BONN, BRUSSELS, DUBLIN, HELSINKI, LONDON, PARIS, ROME, AND THE HAGUE WERE GIVEN A SIMILAR MESSAGE IN STATE 248292 AND MAY, AT THEIR DISCRETION TRANSMIT COPIES THEREOF TO TOURISM AND TREASURY PEOPLE. FOR INFO OF POSTS OTHER THAN BERN, BONN, BRUSSELS, DUBLIN, HELSINKI, LONDON, PARIS, ROME, AND THE HAGUE STATE 248292 DESCRIBED THE "EUROPEAN" SUBTYPE OF US ABC WHICH REQUIRES 45 DAYS ADVANCE PURCHASE/PRELISTING AND A SEVEN-DAY MINIMUM

DURATION, ALLOWS ONLY 10 PERCENT SUBSTITUTION FROM THE GENERAL PUBLIC, BUT ALLOWS 10 PERCENT SUBSTITUTION FROM A WAIT LIST. MESSAGE POINTS OUT THAT THESE CONDITIONS ARE DESIGNED TO MOVE HALFWAY BETWEEN CONDITIONS IN EXISTING RULES OF ABOVE COUNTRIES (I.E., 60 DAYS ADVANCE PURCHASE, 14 DAYS MINIMUM DURATION IN SEASON, 10 DAYS WINTER, NO SUBSTITUTION) AND MORE LIBERAL CONDITIONS OF US ABC RULES FOR REST OF WORLD AS DESCRIBED BELOW. MESSAGE URGES HOST GOVERNMENTS TO MODIFY OWN RULES AND REQUESTS RESPONSE.

2. ALL POSTS SHOULD NOTE THAT MESSAGE IN PARA 3 DELIBERATELY DOES NOT REQUEST A REPLY. THE DEPARTMENT BELIEVES THAT IN MANY CASES THERE CAN BE A VAST DIFFERENCE BETWEEN FORMAL POLICIES, WHICH A WRITTEN REPLY WOULD PRESUMABLY ECHO, AND ACTUAL PRACTICES, WHICH MAY BE CONSIDERABLY LESS RESTRICTIVE. IN OTHER CASES, A QUID PRO QUO MIGHT BE SOUGHT. ACCORDINGLY, EACH ACTION POST SHOULD MERELY REPORT REACTIONS, IF ANY, AND GIVE ITS OWN ASSESSMENT OF THE LIKELIHOOD OF ACCEPTANCE OF ABC TRAFFIC BY HOST GOVERNMENTS.

3. MESSAGE:
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A. (OPENING) ... THE UNITED STATES CIVIL AERONAUTICS BOARD RECENTLY ADOPTED REGULATIONS WHICH TOOK EFFECT OCTOBER 7, 1976, AUTHORIZING THE PERFORMANCE BY BOTH UNITED STATES FLAG AND FOREIGN FLAG AIR CARRIERS OF ADVANCE BOOKING CHARTER FLIGHTS (ABC'S). THIS TYPE OF CHARTER HAS BEEN RECOGNIZED BY THE AERONAUTICAL AUTHORITIES OF MANY EUROPEAN COUNTRIES AND CANADA FOR ALMOST FOUR YEARS AND PREVIOUSLY BY THE UNITED STATES FOR FLIGHTS ORIGINATING OUTSIDE ITS TERRITORY UNDER FOREIGN RULES ACCEPTED BY THE UNITED STATES. ABC RULES ALLOW GROUPS TO FLY AT ATTRACTIVE RATES MADE POSSIBLE BY THE ECONOMICS OF FULL PLANELOAD OPERATIONS, BUT WITHOUT REQUIREMENTS OF HAVING PRIOR AFFINITY (WHICH MAY WELL BE UNJUSTLY DISCRIMINATORY) OR PARTICIPATING IN AN ALL-INCLUSIVE TOUR. THEY ARE MORE

SIMPLE THAN TRAVEL GROUP CHARTERS AND MAY BE SOLD FOR A FIXED PRICE. ABC FLIGHTS CAN, BUT NEED NOT, INCLUDE PACKAGED TOURS, (WHEREAS TOUR CHARTERS, I.E., ITC'S AND OTC'S, MUST INCLUDE TOURS.) THEY HOLD OPEN THE POSSIBILITY OF MAKING INTERNATIONAL AIR TRAVEL AND TOURISM AVAILABLE TO MANY MORE PEOPLE. THE BOARD BELIEVES THEY MAY ULTIMATELY REPLACE "PRIOR AFFINITY" AND "TRAVEL GROUP" CHARTERS.

B. WHILE OPENING GREATER POSSIBILITIES FOR TRAVEL AND TOURISM, THE BOARD INCLUDED SEVERAL KEY LIMITATIONS WHICH, TAKEN COLLECTIVELY, DISTINGUISH THIS TYPE OF AIRCRAFT

CHARTER FROM EXISTING REGULARLY SCHEDULED AIR SERVICE. THEY ARE:

(1) TRAVEL MUST BE ROUND TRIP ON PREDETERMINED FIXED DATES;

(2) TICKETS MUST BE FULLY PURCHASED AT LEAST 30 DAYS BEFORE THE OUTBOUND FLIGHT (15 DAYS BEFORE BEGINNING OCTOBER 1, 1978);

(3) EACH GROUP MUST TRAVEL TOGETHER ON BOTH THE OUTBOUND LEG AND THE RETURN LEG OF THE FLIGHT;

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(4) A COMPLETE LIST OF ALL ABC PASSENGER NAMES (EXCEPT FOR A LIMITED NUMBER OF SUBSTITUTE PASSENGERS) MUST BE FILED WITH THE CIVIL AERONAUTICS BOARD 30 DAYS BEFORE THE OUTBOUND FLIGHT (15 DAYS BEFORE BEGINNING ON OR AFTER OCTOBER 1, 1978);

(5) AFTER THE LIST HAS BEEN FILED NO ADDITIONAL (I.E., FILL UP) PASSENGERS ARE ALLOWED, HOWEVER, UP TO 15 PERCENT OF THE SEATS CONTRACTED FOR MAY BE OCCUPIED BY PERSONS NOT ON THE PRE-FILED PASSENGER LIST WHO ARE SUBSTITUTES FOR PASSENGERS WHO HAVE FOUND A NEED TO CANCEL THEIR TRIP (FOR, E.G., ILLNESS, DEATH, CHANGE IN EMPLOYMENT, OR OTHER REASONS);

(6) AT LEAST 40 SEATS MUST BE CONTRACTED FOR BY EACH ABC GROUP ON SPLIT CHARTERS (EXCEPT ON AIRCRAFT WITH FEWER THAN 80 SEATS WHERE TWO BLOCKS OF AT LEAST 20 SEATS EACH MAY BE CONTRACTED FOR) AND THE ENTIRE AIRCRAFT MUST BE UNDER CHARTER TO ONE OR MORE ABC OR OTHER CHARTERERS; AND

(7) TICKETS MAY NOT BE SOLD DIRECTLY BY AIR CARRIERS.

C. THE CIVIL AERONAUTICS BOARD CAREFULLY CONSIDERED PREDICTIONS BY SOME PARTIES OF DIVERSION FROM SCHEDULED AIR SERVICES AND FOUND THAT SUCH PREDICTIONS WERE SIMILAR TO THOSE ADVANCED BY OPPONENTS OF CHARTER TRAVEL IN INCLUSIVE TOUR CHARTER, TRAVEL GROUP CHARTER, AND ONE-STOP INCLUSIVE TOUR CHARTER RULEMAKING PROCEEDINGS IN PAST YEARS WHERE EXPERIENCE HAS SHOWN THAT THE PREDICTED DIVERSION HAS NOT MATERIALIZED. THESE RULES HAVE ALL BEEN UPHELD BY THE US COURTS. ONE COURT FOUND THAT "THE CONSISTENT LAMENTATIONS AND PREDICITONS OF DOOM BY DIVERSION RAISED BY THE SCHEDULED AIR CARRIERS IN THE PAST HAVE PROVED ... TO BE CONSIDERABLY OVERSTATED." IN THE ABC RULEMAKING THE BOARD FOUND NO EVIDENCE THAT CURRENT DIVERSION PREDICTIONS ARE CREDIBLE. THE BOARD SAID THAT IF ANY UNANTICIPATED

CONSEQUENCE CONTRARY TO THE PUBLIC INTEREST SHOULD DEVELOP, THE BOARD IS FULLY PREPARED TO AMEND THE RULE OR TO REVOKE IT ENTIRELY IF NECESSARY.

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D. ALL FIVE CIVIL AERONAUTICS BOARD MEMBERS APPROVED THE NEW RULE ALTHOUGH TWO WOULD HAVE ALLOWED A MORE LIBERAL SUBSTITUTION OF PASSENGERS FROM THE GENERAL PUBLIC AND WOULD HAVE INCLUDED PROVISIONS ALLOWING SEPARATE RETURN OF PASSENGERS. THE TWO MEMBERS FELT THAT A MORE LIBERAL SUBSTITUTION RULE WOULD INCREASE MARKETING OPPORTUNITIES AND PROVISIONS ALLOWING SEPARATE RETURN WOULD MAINTAIN THE ECONOMICS OF PLANELOAD CHARTERS WHILE GEOMETRICALLY INCREASING MARKETING FLEXIBILITY, AND ACCORDINGLY, BENEFITS TO CONSUMERS.

E. CHARTER ORGANIZERS AND AIR CARRIERS (BOTH SCHEDULED AND CHARTER ONLY) OF THE UNITED STATES AND OTHER COUNTRIES ARE NOW, OF NECESSITY, ALREADY MAKING PLANS FOR CHARTER FLIGHTS IN LATE 1976 AND ALL OF 1977. THEIR INDEPENDENT CHOICES OF DESTINATIONS MUST BE BASED ON BOTH THE INTERESTS OF THEIR CLIENTS AND THE RECEPTIVITY OF DESTINATION COUNTRY GOVERNMENTS WHOM, THEY RECOGNIZE, MUST ALSO APPROVE SUCH CHARTER FLIGHTS. THE UNITED STATES GOVERNMENT BELIEVES THAT THE BEST INTERESTS OF THE TRAVELING PUBLIC AND TOURISM RECEIVING COUNTRIES WOULD BE WELL SERVED BY EFFORTS GOVERNMENTS CAN MAKE TO PROVIDE FOR ACCEPTANCE OF ABC FLIGHTS NOW. (COMPLIMENTARY CLOSE.)

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